

REMARKS/ARGUMENTS

Claims 1-15 are pending in the captioned application. Applicant has amended claim 1 to correct a typographical error.

The Examiner has required restriction under 35 U.S.C. 121 and 372, to one of the following groups:

- I. Claims 1-10 drawn to a method of identifying one or more substances having affinity for a given target substance.
- II. Claims 11-15 drawn to a library of different ligands.

The Examiner states, "The inventions listed as Groups I-II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the reasons that follow. PCT Rule 13.2 states that unity of invention shall be fulfilled when there is a technical relationship among those inventions involving one or more of the same or corresponding 'special technical features.' It further defines 'special technical feature' as 'those technical features that define a contribution which each of the claimed inventions, claimed as a whole, makes over the prior art.' The technical feature that links all of the claims is library of different ligands. The groups lack unity because this technical feature is *known in the art* as disclosed by Dower et al. (US Pat. No. 5,708,153) (Date of Patent is January 13, 1998). This reference is described below."

The Examiner continues, "Dower et al. (see entire document) disclose synthetic oligomer 'ligand' libraries that incorporate multiple 'identifier tags' for each 'class' of

particles (e.g., see Dower et al., column 7, lines 57-67 to column 8, lines 1-7; see especially figure 2 wherein tags are denoted by circles and classes of molecules are denoted by the separate containers). Dower et al. disclose apportioning the supports (carriers) among a plurality of reaction vessels (i.e., forming different ‘classes’ of particles); exposing the supports in each reaction vessel to a first oligomer monomer and to a first identifier tag (reporter) monomer; pooling the supports; exposing the supports to a second oligomer monomer and to a second identifier tag monomer; exposing the supports to a second oligomer monomer and to a second identifier tag monomer (i.e., using split-mix technology). The identifier tag may be attached by means of a linker (physical or chemical attachment) that has an appropriate functional group at each end, one for the attachment to the support and the other for the attachment to the identifier tag (see column 7, lines 50-54). The identifier tag may be any recognizable feature such as microscopically distinguishable in shape, size, color, or optical density (see column 4, lines 24-36).”

The Examiner then concludes, “Therefore, the technical feature linking the inventions of groups I-II does not constitute a species technical feature as defined by PCT Rule 13.2, as it does not define a contribution over the prior art. Groups I-II are different in that the special technical feature of Group I is drawn to a library of compounds. The special technical feature of Group II is drawn to a method for using/screening a library of compounds.”

In response, Applicants elect, without traverse, to prosecute the invention of Group I, namely claims 1-10.

Applicants make this election without traverse to expedite prosecution of the elected claims, and said lack of traversal should not be interpreted as acquiescence with the Examiner to the disclosure of the Dower et al. reference.

The Examiner states, "This application contains claims directed to more than one species of the generic invention for Groups I-II. These species are deemed to lack unity of invention because they are not so linked to form a single general inventive concept under PCT Rule 13.1." The Examiner continues, "If applicant elects the invention of Group I applicant is required to elect from the following patentably distinct species. Claim 1 is generic. Applicant must elect one species from each subgroup below.

Subgroup 1: Species of particle class characterization (e.g., see claim 2)

Applicant must elect for the purposes of search a single species particle class characterization (e.g., size).

Subgroup 2: Species of particle sub-class characterization (e.g., see claim 3)

Applicant must elect, for the purposes of search, a single species of particle sub-class characterization (e.g., density, shape, color).

Subgroup 3: Species of substance marker (if present) (e.g., see claims 4-5)

Applicant must elect for the purposes of search a single species of substance marker (e.g., fluorescent moiety).

Subgroup 4: Species of identification method (e.g., see claim 8)

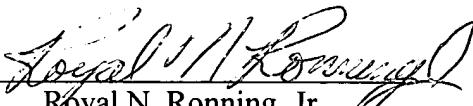
Applicant must elect, for the purposes of search, a single species of identification method (e.g., ocular inspection under microscope)."

In response, with regard to Subgroup 1, Applicants elect the physical property of "size." With regard to Subgroup 2, Applicants elect the property "shape." With regard to Subgroup 3, Applicants elect the group of "fluorescent moiety." With regard to Subgroup 4, Applicants elect the inspection property of "image analyses by computer." All of these elections are made without traverse for administrative convenience to expedite prosecution of the elected claims.

In view of the foregoing, Applicants respectfully request examination and early allowance of the elected claims.

Early and favorable action is earnestly solicited.

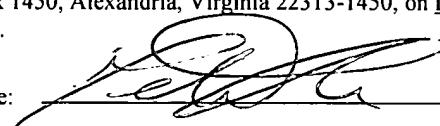
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on December 13, 2004.

Signature: 
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